

CROATIAN PARLIAMENT

2391

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE ACT ON AMENDMENTS TO THE CONSUMER CREDIT ACT

I hereby promulgate the Act on Amendments to the Consumer Credit Act passed by the Croatian Parliament at its session on 15 December 2023.

Class: 011-02/23-02/120

No.: 71-10-01/1-23-2

Zagreb, 20 December 2023

The President
of the Republic of Croatia
Zoran Milanović, m. p.

ACT

ON AMENDMENTS TO THE CONSUMER CREDIT ACT

Article 1

In the Consumer Credit Act (Official Gazette 75/2009, 112/2012, 143/2013, 147/2013, 9/2015, 78/2015, 102/2015, 52/2016 and 128/2022), Article 1a is amended to read:

"This Act transposes into the legal system of the Republic of Croatia Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, as last amended by Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU (OJ L 438/1, 8. 12. 2021) (Text with EEA relevance)."

Article 2

In Article 2, paragraph (1), item (2) is amended to read:

"2. 'creditor' means a natural or legal person who within the territory of the Republic of Croatia grants or promises to grant credits in the course of his trade, business or profession, and includes:

- a legal person who operates according to the laws governing the operation of credit institutions or credit unions, a legal person who operates according to the laws governing the operation of electronic money institutions, a payment institution providing payment services in accordance with a special law, a legal person who operates according to the laws governing the operation of entrepreneurs;
- a natural person who operates according to the laws governing the operation of tradesmen or professions;"

At the end of item (16), the full stop is replaced by semicolon and item (17) is added, which reads:

"17. 'non-performing loan agreement' means a loan agreement classified as a non-performing exposure in accordance with Article 47a of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Text with EEA relevance)."

Article 3

In Article 11b, paragraph (1) is amended to read:

"(1) The maximum allowed interest rate on housing loans with a contracted variable interest rate in euro and CHF and in euro with a currency clause in CHF shall not exceed the average weighted interest rate on the balances of such loans granted in the Republic of Croatia, defined for each of the currencies and increased by 1/3."

Article 4

In Article 11c, paragraph (1) is amended to read:

"(1) The maximum allowed interest rate on other consumer credits with a contracted variable interest rate (other than housing loans) in euro and CHF and in euro with a currency clause in CHF shall not exceed the average weighted interest rate on the balances of such loans granted in the Republic of Croatia, defined for each of the currencies and increased by 1/2."

Article 5

After Article 11d, Article 11e and its title are inserted which read:

"Information to consumers regarding the modification to the terms and conditions of a credit agreement

Article 11e

Prior to modifying the terms and conditions of the credit agreement, the creditor shall communicate the following information to the consumer in a timely manner, either in writing or on another durable medium:

- a) a clear description of the proposed changes or information that the changes were introduced by operation of law;
- b) the timescale for the implementation of the changes referred to in point a) of this Article;
- c) the means for complaint available to the consumer regarding the changes referred to in point a) of this Article;
- d) the time period available for lodging any such complaint;
- e) information that such complaint can be lodged to the Croatian National Bank, the State Inspectorate or the Croatian Financial Services Supervisory Agency and address for lodging such complaint."

Article 6

After Article 16, Articles 16a to 16e and their titles are inserted which read:

"Relationship with the consumer having difficulties in payment

Article 16a

(1) The creditor shall put in place processes to enable the early recognition of consumers with possible difficulties in payment.

(2) The creditor shall establish a function for monitoring and handling of credits to consumers having difficulties in payment and appoint a person in charge of such monitoring and handling of credits to consumers having difficulties in payment, adopt internal bylaws with the criteria for the early recognition of such consumer credits, as well as establish and regularly update policies and procedures for the effective handling of such credits.

(3) By way of exception from paragraph (2) of this Article, the creditor other than a credit institution shall appoint a person in charge of monitoring and handling of credits to consumers having difficulties in payment, adopt internal bylaws with the criteria for the early recognition of such consumer credits, as well as establish and regularly update policies and procedures for the effective handling of such credits.

(4) The creditor shall, as agreed in the credit agreement or through any other agreed form of communication, take reasonable steps to contact the consumers having difficulties in payment and provide them with all the appropriate information and support.

(5) The creditor shall document any case where he was unable to establish contact with the consumer referred to in paragraph (3) of this Article.

(6) The creditor shall ensure appropriate professional training for employees taking part in activities related to consumers having difficulties in payment.

(7) Prior to concluding the agreement for the purchase and sale of a non-performing loan, before initiating foreclosure proceedings or activating collateral, the creditor shall take reasonable and justified action with the aim of reaching an agreement in relation to the collection of arrears under the credit agreement with the consumer having difficulties in payment.

Measures for reaching an agreement

Article 16b

(1) Where it has been found that the consumer is having difficulties in payment, the creditor shall take reasonable steps to determine their cause jointly with the consumer in order to take appropriate further steps to remedy such difficulties in payment.

(2) The creditor shall communicate with the consumer in a language which is clear and easily understandable to the consumer.

(3) When communicating with the consumer regarding the consumer's payment difficulties, the creditor shall respect the consumer's privacy and maintain the level of contact and communication that is commercially justifiable in terms of requests for information.

(4) The creditor shall provide support and the following information to the consumer having difficulties in payment:

- 1) the number of missed or partial payments;
- 2) the total amount of arrears;
- 3) the costs incurred as a result of default; and
- 4) the importance of the cooperation between the consumer and the creditor in order to remedy payment difficulties.

(5) Should payment difficulties persist, the creditor shall inform the consumer in writing about:

- 1) the implications of default; and
- 2) available governmental/public forms of assistance or support.

Measures to facilitate credit repayment

Article 16c

(1) When deciding on the measures to facilitate credit repayment, the creditor shall take into account individual circumstances of the consumer, the consumer's rights and interests and his or her ability to continue repaying the credit.

(2) The creditor shall inform the consumer having difficulties in payment in writing of the actions the creditor intends to take and offer the consumer one or more measures to facilitate credit repayment referred to in paragraph (3) of this Article, prior to the conclusion of the agreement for the purchase and sale of a non-performing loan, before initiating foreclosure proceedings or activating collateral.

(3) Measures to facilitate credit repayment referred to in paragraph (2) of this Article include:

- 1) total or partial refinancing of a credit agreement; and/or
- 2) modification of the existing terms and conditions of a credit agreement, which may, among other possibilities include:
 - a) extending the term for credit repayment;
 - b) changing the type of credit;
 - c) deferring payment of all or part of the repayment of instalments or annuities for a period;
 - d) changing the interest rate;
 - e) offering a payment holiday;
 - f) partial repayments;
 - g) currency conversions; or
 - h) partial forgiveness and debt consolidation.

(4) Measures to facilitate credit repayment referred to in paragraphs (2) and (3) of this Article shall not apply to credit agreements in the form of an overdraft facility.

Fees

Article 16d

(1) The creditor shall not impose fees on consumers having difficulties in payment or charge consumers having difficulties in payment fees arising from default under the credit agreement.

(2) Within the meaning of this Act, default interest shall not be regarded as a fee.

Documenting the procedure when taking measures to facilitate credit repayment

Article 16e

(1) With regard to credits to consumers in payment difficulty, the creditor shall, as part of the credit documentation, also document all the phases of the implemented procedure and communication with the consumer.

(2) The creditor shall in particular include in the documentation an explanation of why the measures to facilitate repayment offered to the consumer are deemed suitable to the consumer's individual circumstances.

(3) The creditor shall keep the documentation and all the records of successful and unsuccessful contact, proposed measures to facilitate credit repayment and agreements reached with the consumer in payment difficulty over the duration of the contractual relationship or until the final conclusion of any initiated legal proceedings."

Article 7

The title of Article 17 is amended to read: "*Purchase and sale of a non-performing loan*"

Article 17 is amended to read:

"(1) The creditor shall inform the consumer about the purchase and sale of a non-performing loan as set out in the act governing the methods, conditions and procedure for servicing and sale of receivables, unless the creditor, in agreement with the acquirer, continues to service the credit vis-à-vis the consumer.

(2) In addition to any complaints against the purchaser, the consumer is entitled to also lodge any complaints he or she might have had against the creditor."

Article 8

In Article 26, paragraph (1), subparagraph (15) is amended to read:

" – if he fails to inform the consumer in accordance with Article 17, paragraph (1) of this Act, about the purchase and sale of a non-performing loan as set out in the act governing the methods, conditions and procedure for servicing and sale of receivables, unless the creditor continues to service the credit vis-à-vis the consumer in agreement with the acquirer".

After subparagraph (15), new subparagraph (16) is inserted which reads:

" – if he fails to enable the consumer, in accordance with Article 17, paragraph (2) of this Act, to lodge any complaints he or she might have had against the creditor, in addition to complaints against the purchaser".

The former subparagraphs (16) to (31) become subparagraphs (17) to (32).

Article 9

After Article 26a, Article 26b is inserted which reads:

"Article 26b

"(1) A creditor shall be fined between EUR 10,610.00 and EUR 26,540.00 for a misdemeanour where:

– contrary to Article 11e of this Act, he fails to timely communicate to the consumer all the information about the modification of the terms and conditions of the credit agreement prior to such modification, either in writing or on another durable medium;

– contrary to Article 16a, paragraph (1) of this Act, he fails to put in place processes to enable the early recognition of consumers with possible difficulties in payment;

– contrary to Article 16a, paragraph (2) of this Act, he fails to establish a function for monitoring and handling of credits to consumers having difficulties in payment or if he fails to appoint a person in charge of such monitoring and handling of credits to consumers having difficulties in payment or if he fails to adopt internal bylaws with the criteria for the early recognition of such consumer credits or if he fails to establish and regularly update policies and procedures for the effective handling of such credits;

– contrary to Article 16a, paragraph (3) of this Act, he fails to appoint a person in charge of monitoring and handling of credits to consumers having difficulties in payment or if he fails to adopt internal bylaws with the criteria for the early recognition of such consumer credits or if he fails to establish and regularly update policies and procedures for the effective handling of such credits;

– contrary to Article 16a, paragraph (4) of this Act, he fails to take reasonable measures to establish contact with the consumers who have difficulties in payment and fails to provide them with all the appropriate information and support or if, contrary to Article 16a, paragraph (5) of this Act, he fails to document that he was unable to establish contact with the consumer;

- contrary to Article 16a, paragraph (6) of this Act, he fails to ensure appropriate professional training for employees taking part in activities related to consumers having difficulties in payment;
 - contrary to Article 16a, paragraph (7) of this Act, he fails to take reasonable and justified action with the aim of reaching an agreement in relation to the collection of arrears under the credit agreement with the consumer in payment difficulty prior to concluding the agreement for the purchase and sale of a non-performing loan, before initiating foreclosure proceedings or activating collateral;
 - contrary to Article 16b, paragraph (2) of this Act, he fails to communicate with the consumer in a language which is clear and easily understandable to the consumer;
 - contrary to Article 16b, paragraph (3) of this Act, when communicating with the consumer regarding his or her payment difficulties, he fails to respect the consumer's privacy and maintain the level of contact and communication that is commercially justifiable in terms of requests for information;
 - contrary to Article 16b, paragraph (4) of this Act, he fails to provide support and at least the following information to the consumer in payment difficulty: the number of missed or partial payments; the total amount of arrears and the costs incurred as a result of default, and if he fails to stress the importance of cooperation between the consumer and the creditor in order to remedy the situation;
 - contrary to Article 16b, paragraph (5) of this Act, where payment difficulties persist, he fails to notify the consumer in writing about the implications of default and if he fails to inform the consumer about available governmental/public forms of assistance or support;
 - contrary to Article 16c, paragraph (1) of this Act, when deciding on the measures to facilitate credit repayment, he fails to take into account individual circumstances of the consumer, the consumer's rights and interests and his or her ability to continue repaying the credit;
 - contrary to Article 16c, paragraph (2) of this Act, he fails to inform the consumer facing payment difficulties in writing of any actions he intends to take and offer the consumer one or more measures to facilitate credit repayment referred to in Article 16c, paragraph (3) of this Act, prior to the conclusion of the agreement for the purchase and sale of a non-performing loan, before initiating foreclosure proceedings or activating collateral;
 - contrary to Article 16d of this Act, he imposes fees on consumers having difficulties in payment or charges consumers having difficulties in payment fees arising from default under the credit agreement;
 - for credits to consumers facing payment difficulties, he fails to document all the phases of the implemented procedure and communication with the consumer as part of the consumer credit documentation, contrary to Article 16e, paragraph (1) of this Act;
 - contrary to Article 16e, paragraph (2) of this Act, he fails to include in the documentation an explanation of why the measures to facilitate credit repayment offered to the consumer are deemed suitable to the consumer's individual circumstances;
 - contrary to Article 16e, paragraph (3) of this Act, he fails to keep the documentation and all the records of established contact, proposed measures to facilitate credit repayment and agreements reached with the consumer in payment difficulty over the duration of the contractual relationship or until the final conclusion of any initiated legal proceedings.
- (2) A responsible person of the legal person shall be fined between EUR 1320.00 and EUR 6630.00 for any of the misdemeanours referred to in paragraph (1) of this Article."

TRANSITIONAL AND FINAL PROVISIONS

Bringing in compliance

Article 10

(1) If the credit agreement has been cancelled before the entry into force of this Act, the creditor shall not be obligated to offer the consumer one or more measures to facilitate credit repayment referred to in Article 16c, inserted by Article 6 of this Act.

(2) The creditor shall bring its operation in compliance with the provisions of this Act within 90 days of the entry into force of this Act.

Entry into force

Article 11

This Act shall enter into force on the eighth day after the date of its publication in the Official Gazette, with the exception of Articles 8 and 9 of this Act, which shall enter into force within 90 days of the date of the publication of this Act in the Official Gazette.

Class: 022-02/23-01/80

Zagreb, 15 December 2023

CROATIAN PARLIAMENT

The President

of the Croatian Parliament

Gordan Jandroković, m. p.